

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5798

61st Legislature
2010 Regular Session

Passed by the Senate March 11, 2010
YEAS 34 NAYS 13

President of the Senate

Passed by the House March 10, 2010
YEAS 58 NAYS 39

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5798** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5798

AS AMENDED BY THE HOUSE

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By Senate Health & Long-Term Care (originally sponsored by Senators Kohl-Welles, McCaslin, Keiser, Pflug, and Kline)

READ FIRST TIME 02/25/09.

1 AN ACT Relating to medical marijuana; amending RCW 69.51A.005,
2 69.51A.010, 69.51A.030, and 69.51A.060; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 69.51A.005 and 2007 c 371 s 2 are each amended to read
5 as follows:

6 The people of Washington state find that some patients with
7 terminal or debilitating illnesses, under their ((physician's)) health
8 care professional's care, may benefit from the medical use of
9 marijuana. Some of the illnesses for which marijuana appears to be
10 beneficial include chemotherapy-related nausea and vomiting in cancer
11 patients; AIDS wasting syndrome; severe muscle spasms associated with
12 multiple sclerosis and other spasticity disorders; epilepsy; acute or
13 chronic glaucoma; and some forms of intractable pain.

14 The people find that humanitarian compassion necessitates that the
15 decision to authorize the medical use of marijuana by patients with
16 terminal or debilitating illnesses is a personal, individual decision,
17 based upon their ((physician's)) health care professional's
18 professional medical judgment and discretion.

19 Therefore, the people of the state of Washington intend that:

1 Qualifying patients with terminal or debilitating illnesses who, in
2 the judgment of their (~~(physicians)~~) health care professionals, may
3 benefit from the medical use of marijuana, shall not be found guilty of
4 a crime under state law for their possession and limited use of
5 marijuana;

6 Persons who act as designated providers to such patients shall also
7 not be found guilty of a crime under state law for assisting with the
8 medical use of marijuana; and

9 (~~(Physicians)~~) Health care professionals also be excepted from
10 liability and prosecution for the authorization of marijuana use to
11 qualifying patients for whom, in the (~~(physician's)~~) health care
12 professional's professional judgment, medical marijuana may prove
13 beneficial.

14 **Sec. 2.** RCW 69.51A.010 and 2007 c 371 s 3 are each amended to read
15 as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

18 (1) "Designated provider" means a person who:

19 (a) Is eighteen years of age or older;

20 (b) Has been designated in writing by a patient to serve as a
21 designated provider under this chapter;

22 (c) Is prohibited from consuming marijuana obtained for the
23 personal, medical use of the patient for whom the individual is acting
24 as designated provider; and

25 (d) Is the designated provider to only one patient at any one time.

26 (2) "Health care professional," for purposes of this chapter only,
27 means a physician licensed under chapter 18.71 RCW, a physician
28 assistant licensed under chapter 18.71A RCW, an osteopathic physician
29 licensed under chapter 18.57 RCW, an osteopathic physicians' assistant
30 licensed under chapter 18.57A RCW, a naturopath licensed under chapter
31 18.36A RCW, or an advanced registered nurse practitioner licensed under
32 chapter 18.79 RCW.

33 (3) "Medical use of marijuana" means the production, possession, or
34 administration of marijuana, as defined in RCW 69.50.101(q), for the
35 exclusive benefit of a qualifying patient in the treatment of his or
36 her terminal or debilitating illness.

37 (~~(+3)~~) (4) "Qualifying patient" means a person who:

1 (a) Is a patient of a (~~(physician licensed under chapter 18.71 or~~
2 ~~18.57 RCW)~~) health care professional;

3 (b) Has been diagnosed by that (~~(physician)~~) health care
4 professional as having a terminal or debilitating medical condition;

5 (c) Is a resident of the state of Washington at the time of such
6 diagnosis;

7 (d) Has been advised by that (~~(physician)~~) health care professional
8 about the risks and benefits of the medical use of marijuana; and

9 (e) Has been advised by that (~~(physician)~~) health care professional
10 that they may benefit from the medical use of marijuana.

11 (~~(+4)~~) (5) "Tamper-resistant paper" means paper that meets one or
12 more of the following industry-recognized features:

13 (a) One or more features designed to prevent copying of the paper;
14 (b) One or more features designed to prevent the erasure or
15 modification of information on the paper; or
16 (c) One or more features designed to prevent the use of counterfeit
17 valid documentation.

18 (6) "Terminal or debilitating medical condition" means:

19 (a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis,
20 epilepsy or other seizure disorder, or spasticity disorders; or

21 (b) Intractable pain, limited for the purpose of this chapter to
22 mean pain unrelieved by standard medical treatments and medications; or

23 (c) Glaucoma, either acute or chronic, limited for the purpose of
24 this chapter to mean increased intraocular pressure unrelieved by
25 standard treatments and medications; or

26 (d) Crohn's disease with debilitating symptoms unrelieved by
27 standard treatments or medications; or

28 (e) Hepatitis C with debilitating nausea or intractable pain
29 unrelieved by standard treatments or medications; or

30 (f) Diseases, including anorexia, which result in nausea, vomiting,
31 wasting, appetite loss, cramping, seizures, muscle spasms, or
32 spasticity, when these symptoms are unrelieved by standard treatments
33 or medications; or

34 (g) Any other medical condition duly approved by the Washington
35 state medical quality assurance commission in consultation with the
36 board of osteopathic medicine and surgery as directed in this chapter.

37 (~~(+5)~~) (7) "Valid documentation" means:

1 (a) A statement signed and dated by a qualifying patient's
2 (~~physician, or a copy of the qualifying patient's pertinent medical~~
3 ~~records~~) health care professional written on tamper-resistant paper,
4 which states that, in the (~~physician's~~) health care professional's
5 professional opinion, the patient may benefit from the medical use of
6 marijuana; and

7 (b) Proof of identity such as a Washington state driver's license
8 or identicard, as defined in RCW 46.20.035(~~;~~ and

9 ~~(c) A copy of the physician statement described in (a) of this~~
10 ~~subsection shall have the same force and effect as the signed~~
11 ~~original)).~~

12 **Sec. 3.** RCW 69.51A.030 and 2007 c 371 s 4 are each amended to read
13 as follows:

14 A (~~physician licensed under chapter 18.71 or 18.57 RCW~~) health
15 care professional shall be excepted from the state's criminal laws and
16 shall not be penalized in any manner, or denied any right or privilege,
17 for:

18 (1) Advising a qualifying patient about the risks and benefits of
19 medical use of marijuana or that the qualifying patient may benefit
20 from the medical use of marijuana where such use is within a
21 professional standard of care or in the individual (~~physician's~~)
22 health care professional's medical judgment; or

23 (2) Providing a qualifying patient with valid documentation, based
24 upon the (~~physician's~~) health care professional's assessment of the
25 qualifying patient's medical history and current medical condition,
26 that the medical use of marijuana may benefit a particular qualifying
27 patient.

28 **Sec. 4.** RCW 69.51A.060 and 2007 c 371 s 6 are each amended to read
29 as follows:

30 (1) It shall be a misdemeanor to use or display medical marijuana
31 in a manner or place which is open to the view of the general public.

32 (2) Nothing in this chapter requires any health insurance provider
33 to be liable for any claim for reimbursement for the medical use of
34 marijuana.

35 (3) Nothing in this chapter requires any (~~physician~~) health care
36 professional to authorize the use of medical marijuana for a patient.

1 (4) Nothing in this chapter requires any accommodation of any on-
2 site medical use of marijuana in any place of employment, in any school
3 bus or on any school grounds, in any youth center, in any correctional
4 facility, or smoking medical marijuana in any public place as that term
5 is defined in RCW 70.160.020.

6 (5) It is a class C felony to fraudulently produce any record
7 purporting to be, or tamper with the content of any record for the
8 purpose of having it accepted as, valid documentation under RCW
9 69.51A.010(~~(6)(a)~~) (7)(a).

10 (6) No person shall be entitled to claim the affirmative defense
11 provided in RCW 69.51A.040 for engaging in the medical use of marijuana
12 in a way that endangers the health or well-being of any person through
13 the use of a motorized vehicle on a street, road, or highway.

14 NEW SECTION. **Sec. 5.** The provisions of section 2 of this act,
15 relating to the definition of "valid documentation," apply
16 prospectively only, not retroactively, and do not affect valid
17 documentation obtained prior to the effective date of this section.

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